

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

Mesquite, Texas

UNIFIRST CORP.,

Employer

and

Case No. 16-RC-10144

UNION OF NEEDLETRADES, INDUSTRIAL
AND TEXTILE EMPLOYEES (UNITE)

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:1/

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 2/
3. The labor organization involved claims to represent certain employees of the Employer. 3/
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act. 4/

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All production and maintenance employees employed by Unifirst Corp. at its Mesquite, Texas facility.

EXCLUDED: All other employees including office clericals, plant clericals, professional and technical employees, salespersons, guards, and supervisors as defined by the Act.

DIRECTION OF ELECTION 5/

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they

desire to be represented for collective bargaining purposes by Union of Needletrades, Industrial and Textile Employees (UNITE).

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list containing the full names and addresses of all eligible voters which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); and *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the NLRB Region 16 Regional Office, Federal Office Building, 819 Taylor Street, Room 8A24, Fort Worth, Texas 76102, on or before October 15, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by October 22, 1999.

DATED October 8, 1999, at Fort Worth, Texas.

/s/ Martha Kinard
Martha Kinard, Acting Regional Director
NLRB Region 16

1. The Employer and the Petitioner filed briefs, which were duly considered.
2. The parties stipulated, and I find, that Unifirst Corp. is a Delaware corporation with a facility in Mesquite, Texas where it is engaged in the business of industrial uniform laundering, sales and rental. During the past 12 months, a representative period, the Employer has performed services valued in excess of \$50,000 for customers located outside the State of Texas and derived gross revenues in excess of \$500,000.
3. The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
4. As referenced above, the Employer operates an industrial laundry business. Specifically, the Employer leases work uniforms, launders those uniforms and provides pick-up and delivery service in conjunction with its laundry operation. The Employer also provides business customers with so-called flat goods, including dust mops, walk-off mats, shop towels, wet mops, and bar towels. The Employer provides laundry services with respect to these items as well. The only facilities involved in these proceedings are the Employer's facilities in Mesquite, Texas, where all production and maintenance work is performed, and four branch facilities located in Longview, Texas, Hewitt/Waco, Texas, Sherman/Denison, Texas and Bossier City/Shreveport, Louisiana.

In the performance of its business operations described above, the Employer employs in Mesquite approximately 90 production employees including Pressers, Loaders, Washroom (or wash aisle), and Stockroom employees, three Shuttle Drivers (who are also included within the Production Department), six maintenance employees (three janitorial and three mechanical maintenance) and 14 Route Drivers. The Employer's maintenance personnel are also considered part of the Production Department. The Employer also employs two Loaders and five Route Drivers in Denison, one Loader and five Route Drivers in Waco, two Loaders and seven Route Drivers in Longview, and two Loaders and six Route Drivers in Shreveport.

The Employer's supervisory hierarchy at the facilities involved in these proceedings include a General Manager who is responsible for the overall operation of the Mesquite facility and its four branch facilities. Reporting directly to the General Manager are the Production, Service and Sales Managers. The Employer's Production Department also includes an Assistant Production Manager and three Production Supervisors. The supervisory hierarchy in the Service Department also includes three District Service Managers. Each of the four branches is headed by a Branch Manager. Likewise, each branch employs a District Service Manager.

The Petitioner seeks to represent a single-facility production and maintenance unit of approximately 90 employees at the Employer's Mesquite facility. The Employer, on the other hand, urges that the only appropriate unit is comprised of approximately 137 employees, including all production and maintenance employees, Route Drivers, and Loaders at its Mesquite, Longview, Denison, Waco and Shreveport facilities.

The Employer's Route Drivers, who work on a commissioned basis, are responsible for servicing business customer accounts. These responsibilities include selling services to business customers, delivering clean uniforms, etc. to customer locations and picking up soiled items at customer locations and returning these items to the Mesquite facility or the branch facility to which the Route Driver is assigned. The Route Drivers' routes take, on average, 10 hours to run. Some routes, however, are overnight routes. The Employer's Route Drivers are employed in the Service Department and report directly to the Service Manager.

The Employer's three Shuttle Drivers, also referred to as Transport Drivers, are responsible (on a daily basis) for picking up soiled items from the various branches returning them to the Mesquite facility and delivering clean items to the branches. The Shuttle Drivers drive semi-trailers in the performance of these duties. Both clean and soiled items are transported within "transport cages" with dimensions of five feet by four feet by six and one-half feet. Shuttle Drivers either load and unload the cages themselves or with the assistance of Loaders. Shuttle Drivers report directly to the Production Manager.

After the Loader or Shuttle Driver unloads soiled garments at the Mesquite facility, these items are taken to the soiled make-up area where they are sorted by product or garment type and prepared for washing. These sorting and preparation responsibilities are preformed by production employees (either loaders or soiled wiper counters). Employees assigned to the "wash aisle" area are responsible for placing items in the washers. Upon completion of the washing process, items are dried and, depending on product or garment type, steamed, pressed or folded. Once this process is completed, items are sorted, returned to the aforementioned transport cages and prepared for shipment to the branches. As referenced above, all production work, including washing, drying, steaming, pressing, etc. is performed at the Employer's Mesquite facility.

The above-referenced six maintenance employees in Mesquite are responsible for building maintenance, janitorial services and mechanical maintenance. The record does not reflect any maintenance employees assigned to or working at any branch facility.

With respect to the benefits enjoyed by the Employer's employees, the record reflects that all production employees, Shuttle Drivers and Route Drivers share the same insurance, 401(k), and profit-sharing benefits. Production employees and Shuttle Drivers are evaluated on an annual basis, while Route Drivers are evaluated on a

quarterly basis and are eligible for quarterly cash performance bonuses. None of the Employer's production employees, including Shuttle Drivers, are eligible for such bonuses. The record reflects that a good Route Driver will typically earn approximately \$4,000.00 a year in bonuses.

The record also reflects that Route Drivers are paid on a different basis than production employees (commission versus hourly). The commission rate is an average of six and one-half percent of sales. Some Route Drivers who drive smaller rural routes with less business receive a guaranteed salary of \$450.00 per week. As hourly employees, production employees, including Shuttle Drivers, punch a time clock. Route Drivers are not required to punch a clock. Finally, there is also a great disparity in the pay rates of production employees and Route Drivers, with Route Drivers earning an average of \$600.00 per week (excluding bonuses) and production employees earning an average of \$320.00 per week.

With respect to lines of progression, the record reflects no example of a production employee promotion to a Route Driver or Shuttle Driver position. Additionally, the record reflects there have been no transfers between the various branches within the past year. None of the Employer's Loaders employed at branch facilities ever worked in Dallas or vice versa.

In addition to the absence of interchange and lines of progression between and among the Employer's production employees and its drivers and branch employees, the record reflects that the Employer's Loaders and Route Drivers at its branch locations do not interact with Mesquite employees. Neither branch Route Drivers or Loaders report to the Mesquite facility or have occasion to come to the Mesquite facility in the performance of their daily job responsibilities. The only cited instance of interaction between branch employees and Mesquite production employees related to occasional training of branch employees at the Mesquite facility. The record reflects, however, that training of new employees is typically conducted at branch locations. Finally, even Route Drivers working out of the Mesquite facility, who run routes lasting 10 hours to overnight, have very little interaction with the Mesquite production employees.

It is well established that a single-location unit is presumptively appropriate for the purposes of collective bargaining. *Bowie Hall Trucking, Inc.*, 290 NLRB 41, 42 (1988); *Esco Corporation*, 298 NLRB 837, 839 (1990). It is further noted that the Board has determined that even where a multi-location unit might be considered as a single enterprise, that fact alone did not overcome the presumption that separate, single-location bargaining units at each facility were appropriate. *Marks Oxygen Co. of Atlanta*, 147 NLRB 228 (1960); *Westbrook Bowl*, 293 NLRB 1000 (1989). As correctly noted by Petitioner, "Board inquiry pursues not the most appropriate or comprehensive unit but simply an appropriate unit." *P.J. Dick Contracting, Inc.*, 290 NLRB 150 (1988). See also *Overnite Transportation Company*, 322 NLRB 723 (1996); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950) enf'd. 190 F.2d 576 (7th Cir. 1951).

The Board has long relied on “community of interest” factors in determining whether separate groups of employees should be included in an appropriate unit for purposes of representation by a labor organization. *Swift & Co.*, 129 NLRB 1391 (1961); See also, *United States Steel Corp.*, 192 NLRB 58 (1971). Such factors include common supervision, nature of employee skills and functions, interchange of employees and contact among employees, work situs, general working conditions and fringe benefits. None of these factors, individually, is determinative; all are weighed in deciding whether a sufficient community of interest exists so as to include separate, identifiable groups of employees in an appropriate unit.

Given the differences in work hours and job responsibilities between production employees and Route Drivers, there is virtually no interaction between these two distinct groups of employees. Route Drivers work in a different department (service), report to different supervision and possess dissimilar skills than those of production employees. Moreover, as referenced above, the average route driver earns approximately twice as much as the average production employee.

While Shuttle Drivers are assigned to the Production Department, like Route Drivers, they have little interaction with production employees, spending less than an hour a day at the Mesquite facility. They possess dissimilar skills from those of production employees and are separately supervised insofar as they report directly to the Production Manager, whereas production employees report directly to first-line production supervision. Moreover, as referenced above, there is no evidence of a line of progression from production jobs to Shuttle Driver positions.

Notwithstanding the evidence introduced into the record by the Employer regarding common benefits, the record establishes that the Employer’s Mesquite production and maintenance employees compose a distinct, identifiable bargaining unit. The branch facilities sites are located between approximately 100 to 200 miles from the Mesquite facility. Contrary to the Employer’s assertions, the record evidence in the instant case is insufficient to establish overlapping supervision, a high degree of integration or frequent, meaningful, or substantive interchange between employees at the Mesquite facility and the Employer’s branch facilities. Moreover, it is the Employer who must establish that the petitioned-for narrower unit is inappropriate. *Executive Resource Associates, Inc.*, 301 NLRB 400, 402 (1991); *Omni-Dunfey Hotels, Inc.*, 283 NLRB 475 (1987).

Based on the foregoing, I find that the petitioned-for single-location unit of production and maintenance employees at the Employer’s Mesquite, Texas facility is appropriate. See *Executive Resources Associates, Inc.*, 301 NLRB 400 (1991); See also *Chin Industries, Inc.*, 232 NLRB 176 (1977) (Board found that a unit of production and maintenance employees employed by an employer engaged in laundry service and rental of garments to commercial accounts to be an appropriate unit. Board specifically found there were a number of distinguishing factors to support the conclusion that production and maintenance employees alone constituted an

appropriate unit and excluded branch employees, branch drivers, rental drivers and retail route salesmen).

5. In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

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